



Appeal Decision

Site visit made on 20 September 2022

by Stewart Glassar BSc (Hons) MRTPI

an Inspector appointed by the Secretary of State

Decision date: 17 NOVEMBER 2022

Appeal Ref: APP/Z3635/W/21/3287743

Land at Vineries Nurseries Site, Spout Lane, Stanwell Moor TW19 6BN

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant planning permission.
 - The appeal is made by Mr Michael Ferncombe against the decision of Spelthorne Borough Council.
 - The application Ref 21/00610/FUL, dated 13 April 2021, was refused by notice dated 21 June 2021.
 - The development proposed is described as 'the retention of existing hardstanding (retrospective)'.
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Decision

1. The appeal is dismissed.

Main Issues

2. The main issues are:
 - (a) whether the proposed development would be inappropriate development in the Green Belt having regard to the Framework and any relevant development plan policies;
 - (b) the effect of the proposal on the character and appearance of the area; and
 - (c) Whether any harm by reason of inappropriateness, and any other harm, would be clearly outweighed by other considerations, so as to amount to the very special circumstances required to justify the proposal

Reasons

Whether Inappropriate Development

3. The Framework advises that the construction of new buildings in the Green Belt should be regarded as inappropriate development.
4. Paragraph 150(b) of the Framework states that engineering operations are not inappropriate development in the Green Belt provided they preserve its openness and do not conflict with the purposes of including land within it. From the evidence before me the main parties appear to agree that the proposed development would constitute engineering operations, and I see no reason to disagree.

a) Openness

5. Openness is not defined in the Framework but in determining the nature and extent of any impact on Green Belt openness, it is necessary to assess both spatial and visual impacts.
6. I note that the previous hardstanding was unauthorised, and an enforcement notice has taken effect against it. Any assessment of the new surface, which comprises recycled sub-base permeable material, must be against what would be the lawful position.
7. I accept that a change in itself does not necessarily have a greater impact on openness of the Green Belt. However, even allowing for the nature of the site, its lawful use and its locational context, the scale of coverage and type of material has a physical expression which gives the site a more permanent and developed character and appearance compared to if the site were to have remained covered in vegetation or soil or similar.
8. Whilst I acknowledge that the adverse impact on openness would overall be limited, this does not in itself mean that there is no impact on the openness of the Green Belt. There is a material loss of openness, the inevitable consequence of which is that openness is not 'preserved'.
9. The use of the site would not change from that which the Council has previously accepted to be the lawful use. However, the main parties disagree as to whether the hardstanding would affect the level of storage or activity on site. Clearly most items stored on site will have a solid form, and albeit they may be moveable items or materials, when they are stored on the site their physical presence and bulk could reduce openness.
10. It is not unreasonable to assume that if the site is tidier and operationally more manageable and efficient, then an operator might be better able to take advantage of any new or additional commercial opportunities that come forward. Also, a hard surface might enable vehicles to carry more or larger items. Thus, the hardstanding could in theory help to facilitate an increase in the storage of items on site.
11. In disputing this the appellant points out that the hardstanding is not required for the site to operate at current or higher levels of storage. I accept that the existing lawful use has no limits as to what can be stored on site or any restrictions on height. Thus, whilst a correlation between the hard surface and levels of usage/storage cannot be ruled out entirely, there is limited evidence before me to conclude with reasonable certainty that any additional storage or activity, which would in turn effect openness, would be directly attributable to the hardstanding and would not occur without it.
12. Notwithstanding my conclusion in relation to the effect of the new surface on the ability of the site to increase storage capacity, I conclude overall that the proposed engineering operations in and of themselves would affect the openness of the Green Belt such that it would not be preserved.

b) Purpose

13. The lawful use of the site is for storage purposes (Class B8). The site is enclosed by galvanised palisade fencing. There is an adjacent business/building which has its own car parking area. Both the appeal site and neighbouring

operations share the same tarmacked apron and access from Spout Lane. To the south of the site and to the east of Spout Lane the land is open and undeveloped.

14. Accordingly, the site relates far more closely to the neighbouring operations than the undeveloped areas to the south and east. In the light of this, I consider that the proposal would not result in encroachment of development into the countryside, and so it would not be contrary to Paragraph 138(c) of the Framework.
15. There was no dispute between the main parties that the appeal scheme would be contrary to any of the other purposes of the Green Belt. There is nothing which leads me to a different conclusion in this regard. Therefore, I am satisfied that the development would not conflict with any of the purposes of including land within the Green Belt.

c) Findings

16. Taking all the above into consideration, I conclude that the development would be harmful to the openness of the Green Belt and thus inappropriate development. As such, it would be contrary to saved Policy GB1 of the Spelthorne Borough Local Plan 2001 and Paragraph 150(b) of the Framework which seek to protect it. These are matters to which the Framework requires me to attach substantial weight.

Character and Appearance

17. The site lies close to the western perimeter of Heathrow airport and is bound to the north by a large existing building, a tarmacked car parking area with the A3113 beyond. Housing borders the western boundary of the site.
18. To the south of the site, the land is undeveloped and appears to be used as allotments or similar. On the opposite side of Spout Lane there are open and undeveloped fields. When standing on Spout Lane near the site entrance, the prevailing character to the south is semi-rural. The existing vegetation along Spout Lane, the tree planting along the site access and the slightly set back position of the appeal site from Spout Lane assist in screening the site and contributing to this semi-rural character.
19. However, these factors also assist in minimising the effect of the hardstanding on the wider area. I also note that any views of the new surface would be through the palisade fencing and between any items stored on the site. Occupiers of nearby houses would have clearer views of the hardstanding, particularly from upper floor windows. However, the visibility of the hardstanding will to some extent be dependent upon how much equipment, material etc. is stored on site at any one time, but views of the hardstanding would in general be limited. Accordingly, the effect on the wider area would be marginal.
20. The Council notes that the previous operations were low key and concentrated on a small part of the site. However, the entire site benefits from the lawful development certificate and this does not prevent an occupier/operator using the site more intensively, provided the use remains lawful.
21. Given the nature of the site and its lawful use, I find that the proposal would not be unduly harmful to the character or appearance of the wider area. As

such, it would accord with Policy EN1 of the Spelthorne Core Strategy and Policies Development Plan Document 2009 (DPD) which, amongst other things, seeks to ensure development has regard to the characteristics of adjoining land.

Other Considerations

22. I accept that if the hardstanding were to be removed the existing operations on site could continue, as the new surface is not said to be essential to the operation of the lawful use. The hardstanding is not widely visible, and, in many instances, it would be considered an appropriate surface for a Class B8 use.
23. However, for the reasons set out above, I have found the hardstanding in its own right to cause harm to Green Belt openness, notwithstanding the lawful use and the operations and activity on site. Nevertheless, the existing planning situation and the continuation of the operations together with the limited visibility are factors to which I give significant weight.
24. As noted, the hardstanding would bring operational benefits to the site. The hardstanding will undoubtedly reduce the possibility of mud being tracked onto the highway during wet weather. However, it is not clear the extent to which this has been a problem in the past, especially given the distance from the site entrance to the highway.
25. The site is also said to be tidier as a result of the hardstanding. Certainly, items stored on site might be cleaner, although this seems likely to be a greater benefit to the operator, rather than to the wider area. It is less clear how the hardstanding would control dust in dry conditions, especially as the crushed material itself could potentially contribute to such issues.
26. Overall, whilst any wider environmental improvements are a positive benefit, for the reasons set out above, I give them limited weight in this case.
27. I am aware that the Council's decision on the application came as something of a surprise to the appellant, given the pre-application discussions that had taken place. I have not had further regard in this decision to how the Council handled the application as this is an administrative matter to be taken up directly with them. I have focused on the planning merits of the scheme in regard to the main issues of the case.

Green Belt Balance

28. Whilst I have found that the proposal would have a limited effect on the openness of the Green Belt, it would cause some harm to it, and thus by definition would be inappropriate. The Framework requires me to give such harm substantial weight and advises that inappropriate development should not be approved except in very special circumstances. Very special circumstances will not exist unless the harm to the Green Belt and any other harm is clearly outweighed by other considerations.
29. The weight I give to the considerations cited in support of the proposal is significant. Whilst there would not be undue harm to the character and appearance of the area, this is a neutral factor in the balance.

30. The circumstances cited in support of the proposal must not just outweigh the harm to the Green Belt but clearly outweigh it in order to constitute very special circumstances. For the reasons given above, I find that the other considerations in this case do not, either individually or cumulatively, clearly outweigh the harm to the Green Belt that I have identified. Consequently, the very special circumstances necessary to justify the development do not exist.

Planning Balance and Conclusion

31. Although there would be no conflict with Policy EN1 of the DPD, there would be conflict with saved Policy GB1 of the Local Plan and the provisions of the Framework in relation to the protection of the Green Belt.
32. I therefore conclude for the reasons given above, and having regard to all other matters raised, that the appeal should be dismissed.

Stewart Glassar

INSPECTOR